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In the Supreme Court of the United States

OCTOBER TERM, 1945

No. 578

THOMAS PAPER STOCK COMPANY, ET AL.,
PETITIONERS

v.

CHESTER BOWLES, PRICE ADMINISTRATOR

ON WRIT OF CERTIORARI TO THE UNITED STATES EMERGENCY COURT OF APPEALS

BRIEF FOR THE RESPONDENT

OPINION BELOW

The opinion of the United States Emergency Court of Appeals (R. 43–50) has not yet been reported.

JURISDICTION

The judgment of the United States Emergency Court of Appeals was entered on October 5, 1945 (R. 51). The petition for a writ of certiorari was filed in this Court on November 3, 1945. Certiorari was granted on January 2, 1946 (R. 53). The jurisdiction of this Court is invoked under Section 204 (d) of the Emergency

Price Control Act, c. 26, 56 Stat. 23, as amended, 50 U. S. C. App. Supp. IV, 924 (d), (herein sometimes termed "the Act"), making applicable Section 240 of the Judicial Code, as amended (28 U. S. C. 347).

QUESTION PRESENTED

Whether, under Section 2 (j) (3), added on July 16, 1943, to the Emergency Price Control Act of 1942, as amended, an announcement by the Price Administrator that there is no practicable alternative to a standardization for effective price control is a condition precedent to the continued validity, after July 16, 1943, of a previously valid maximum price regulation containing such standardization.

STATUTE AND REGULATION INVOLVED

The applicable provision of the Emergency Price Control Act of 1942, as amended, appear *infra*, pp. 3–4. Pertinent procedural provisions are printed in the appendix to the Price Administrator's brief in *Thomas Paper Stock Co., et al* v. *Bowles*, No. 67, this Term. Maximum Price Regulation No. 30 appears in the Federal Register (7 F. R. 9732). Supplementary Order No. 64; Statements of the Reasons Involved in the Issuance of Supplementary Orders Nos. 55 and 64; Supplementary Statement of Considerations Involved in the issuance of Maximum Price Regulation No. 30; Amendment No. 6 to Maximum Price Regulation No. 30; and Stateiment of Considera-

tions Involved In the Issuance of Amendment No. 6 to Maximum Price Regulation No. 30 appear in the Appendix, *infra*, pp. 25–47.

STATEMENT

On November 21, 1942, the Price Administrator issued Maximum Price Regulation No. 30, establishing specific maximum prices for various grades of wastepaper (7 F. R. 9732). So far as here relevant, the Regulation provided that unsorted wastepaper might not be sold to consumers thereof at a price higher than the maximum price prescribed for No. 1 mixed paper.[1]

On July 16, 1943, the Emergency Price Control Act of 1942 was amended by the addition of Section 2 (j), the so-called Taft Amendment, which provides that

> Nothing in this Act shall be construed * * * (3) as authorizing the Administrator to standardize any commodity, unless the Administrator shall determine, with respect to such standardization that no practicable alternative exists for securing effective price control with respect to such commodity; or (4) as authorizing any order of the Administrator fixing max-

[1] Maxmum Price Regulation No. 30 was a revision of Revised Price Schedule No. 30. On December 28, 1943, the section involved was amended by Amendment No. 6, 8 F. R. 17483. While the amendment made no change relevant to the instant case, the statement of considerations which accompanied it (see Appendix, *infra*, pp. 44–47) has bearing upon the issue here.

> imum prices for different kinds, classes, or types of a commodity which are described in terms of specifications or standards, unless such specifications or standards were, prior to such order, in general use in the trade or industry affected, or have previously been promulgated and their use lawfully required by another Government agency.

For the purpose of this proceeding it is conceded that Maximum Price Regulation No. 30 "standardizes" unsorted wastepaper and, therefore, falls within the purview of Section 2 (j) (3) of the Act.

On September 11, 1943, the Administrator amended the preamble to Maximum Price Regulation No. 30 by adding the following sentence thereto:

> Insofar as this regulation uses specifications and standards which were not, prior to such use, in general use in the trade or industry affected, or insofar as their use was not lawfully required by another Government agency, the Administrator has determined, with respect to such standardization, that no practicable alternative exists for securing effective price control with respect to the commodities subject to this regulation.

This amendment was made by Supplementary Order No. 64,[2] which was accompanied by a state-

[2] 8 F. R. 12554, reprinted in the Appendix, *infra*, pp 28–30.

ment of the reasons involved in the issuance thereof. At the same time the Administrator issued a supplementary statement of the considerations involved in the issuance of Maximum Price Regulation No. 30.[3]

On December 17, 1943, an indictment under Section 205 (b) of the Act was returned in the United States District Court for the Northern District of Illinois, alleging that at specified times between July 16 and September 11, 1943, petitioners had made sales of unsorted wastepaper at more than the maximum price prescribed by Maximum Price Regulation No. 30 (R. 5). On June 29, 1944, a civil action under paragraphs (a) and (e) of Section 205 was brought against petitioners by the Administrator in the same court, alleging similar violations (R. 5).

On June 15, 1944, petitioners filed a protest against Section 1347.14 (d) of the Regulation, purportedly pursuant to Section 203 (a) of the Emergency Price Control Act of 1942, as amended. It was contended in the protest that Maximum Price Regulation No. 30 was currently invalid. Petitioners further specifically urged that Section 1347.14 (d) of Maximum Price Regulation No. 30 should be declared to have been invalid between July 16, 1943, and September 11, 1943. (R. 8–9.)

On June 30, 1944, the Stabilization Extension Act of 1944 (Pub. No. 383, 78th Cong., 2d Sess.),

[3] This supplementary statement of considerations appears in the Appendix, *infra*, pp. 25–28.

amending the Emergency Price Control Act, became effective. This Act added to Section 204 of the Emergency Price Control Act a new subsection (e) (Appendix to Br. in No. 67) which provides (1) for a limited right of defendants in proceedings under Section 205 to secure review of maximum price or rent regulations through direct complaint to the Emergency Court of Appeals without prior resort to the administrative protest procedure of Section 203; and (2) for the stay, or dismissal of, or vacation of judgment in, actions brought under Section 205 under certain circumstances.

On July 29, 1944, the Acting Administrator issued an order, accompanied by an opinion, denying petitioners' protest (R. 7).[4] Thereupon, on August 26, 1944, petitioners filed a complaint with the Emergency Court of Appeals, pursuant to Section 204 (a) of the Emergency Price Control Act of 1942, as amended, seeking review of the denial of the protest (R. 7). On March 27, 1945, the Emergency Court dismissed the complaint, holding that the contested provision of Maximum Price Regulation No. 30 was currently valid and that the court had no jurisdiction under Section 204 (a) of the Act to consider the objection that the provision was invalid during the period July 16 to September 11, 1943, by virtue of the Administrator's failure to publish his determination

[4] See pp. 15–29 of the record in No. 67, this Term.

that there was no practicable alternative for securing effective price control (R. 7–8, 148 F. 2d 831). Petitioners sought review of this decision of the Emergency Court of Appeals and certiorari was granted by this Court on June 4, 1945. No. 67, this Term.

On May 10, 1945, the District Court of the United States for the Northern District of Illinois, Eastern Division, in case No. 43 CR 735, granted the petitioners leave to file with the Emergency Court of Appeals a direct complaint under Section 204 (e) (1) to challenge the validity of Section 1347.14 (d) of Maximum Price Regulation No. 30 for the period between July 16 and September 11, 1943 (R. 11–12). A complaint under Section 204 (e) of the Act was filed by petitioners on June 8, 1945 (R. 1–5). The Emergency Court of Appeals dismissed the complaint on the merits (R. 51), holding that the enactment of the Taft Amendment on July 16, 1943, did not render Section 1347.14 (d) of Maximum Price Regulation No. 30 invalid between July 16, 1943, and September 11, 1943, when the Administrator announced his determination that there was no practicable alternative for effective price control to the standardization embodied in that section of the Regulation (R. 43–47).

SUMMARY OF ARGUMENT

The question here presented is whether the provision of Maximum Price Regulation No. 30

standardizing wastepaper must be declared to have been invalid between July 16, 1943, when section 2 (j) was added to the Emergency Price Control Act, and September 11, 1943, when the Price Administrator announced his determination that there was no practical alternative to such standardization for effective price control. Neither the statutory language nor the legislative history supports petitioners' argument that the amendment was intended to render immediately invalid all regulations containing standardization provisions, until such time as the Price Administrator might announce determinations with reference to the necessity for such provisions. The critical need, at the time of passage of the Amendment, for maintaining continuity of price control negatives such an intention on the part of the Congress.

No principles of law compel the result for which petitioners contend. In *Panama Refining Co.* v. *Ryan*, 293 U. S. 388, the Court's discussion of the necessity for expressed findings was linked with its condemnation of an invalid delegation of legislative power; and the case in any event does not hold that findings must be announced when a regulation is issued. This Court has approved the practice of remanding proceedings to an administrative agency to supply needed findings which, when supplied, will serve to validate the administrative order from the outset. No case has been cited in which an administrative order

has been invalidated where the necessary findings had been made before judicial review. The Price Administrator announced his determination with respect to the waste paper standard here involved long before judicial review was sought. Since under the Act administrative hearings intended to build a record for judicial review are held after the issuance of regulations, there is especial reason why findings announced after a regulation has become effective should be recognized as satisfying the statutory requirement; for the prescribed procedure is not intended to secure participation by individual affected parties in the administrative determination, but merely to assure adequate evidence that a considered administrative judgment has been reached.

The correctness of the Price Administrator's finding is not properly in issue here. Petitioners did not challenge it in their complaint, although the Price Administrator's determination had been announced long before. In any event there is no substance to petitioners' suggestion that the Price Administrator's determination does not refer to the period prior to September 11, 1943, the date of its publication. The statement made by the Administrator shows plainly that his determination was based upon conditions which had existed for some time.

The construction placed upon the statute by the court below does not present any substantial constitutional questions. The previous discus-

ows that the requirements of due process tisfied if, prior to or during the course of l review, procedural deficiencies are cor- . And there is no problem here of *ex post* legislation. The regulation involved was nding for some time prior to, and at the f, the alleged violations. The Price Ad- rator's determination defined no new of- and did not affect the content of that which ners are charged with having committed.

ARGUMENT

rtinent provision of Maximum Price Regulation) remained effective between the time of the enact- of Section 2 (j) (3) of the Emergency Price Con- ct and the Administrator's determination, made ant to the amendment

language of Section 2 (j) (3) of the Emer- Price Control Act, as amended, and ap- e principles of law support the conclusion court below that a provision of a regulation rdizing a commodity, which was valid and ct on the date on which that section was o the Act, was not rendered ineffective be- that date and the date the Administra- nounced his determination that there was ticable alternative to such standardization ctive price control. In this proceeding the n is whether Section 1347.14 (d) of Maxi- Price Regulation No. 30 must be declared been invalid between July 16, 1943, when 2 (j) was added to the Act, and Septem-

ber 11, 1943, when the Price Administrator publicly announced his determination that there was no practicable alternative to the standardization embodied in the regulation for effective price control.

Although the validity of the standardizing provision prior to July 16, 1943 and subsequent to September 11, 1943 is not questioned, petitioners contend that it must be declared to have been invalid between those dates because under the Taft Amendment the announcement of the Price Administrator's determination was a condition precedent to the continued effectiveness of any standardization provision of a regulation outstanding at the time of the enactment of the amendment. The statutory language upon which they rely is:

> Nothing in this Act shall be construed * * * as authorizing the Administrator to standardize any commodity, unless the Administrator shall determine, with respect to such standardization that no practicable alternative exists for securing effective price control with respect to such commodity; * * *

Certainly the foregoing language did not by its terms repeal outstanding regulations which standardize commodities (*United States* v. *Pepper Bros.*, 142 F. 2d 340 (C. C. A. 3)), nor does it purport to render any outstanding regulations immediately unenforceable or ineffective. Indeed, it is

hard to conceive that the Congress could have intended any such result. The basic pattern of the Act to which the Taft Amendment was added is to provide the continuity of control without which relentless inflationary pressures generated by a wartime economy could not be held in check. *Yakus* v. *United States*, 321 U. S. 414, 432–433. The Taft Amendment became law at a time when the struggle against inflation was in a critical phase. Cf. Executive Order No. 9328, *Stabilization of Wages, Prices, and Salaries*, April 8, 1943, 8 F. R. 4681. It is not lightly to be concluded that, in this context, the Congress intended to require virtual suspension of an indefinite number of maximum price regulations until the Price Administrator could review them.

That the Congress did not have any such intention is affirmatively indicated by the statement of Senator Taft at the time he offered the Amendment in the form in which it was finally enacted. He said:

> Mr. President, as the Senate will remember, in one of the appropriation bills we included a very tight provision against grade labeling and the elimination of trade names. The amendment was inserted on the floor of the House. The language used was not very apt for the purpose.
>
> Price Administrator Brown came before the committee and urged that it would seriously hamper his price regulations in

> a number of trades, regulations for which had already been issued, to many of which there was no objection. He submitted another form of amendment, carrying out the same purpose, but making it perfectly clear that it would not interfere with those regulations, which are proper. [Cong. Rec. July 6, 1943, Vol. 89, p. 7251.]

It was later found to be the fact that there was no objection to the standardization provisions of many outstanding regulations. The Administrator's subsequent review of the regulations outstanding when the Taft Amendment was passed disclosed that although more than 50 of them "standardized" commodities, all but two were in conformity with the substantive requirement of the Amendment.[5]

---

[5] The preambles to 56 maximum price regulations were amended on September 11, 1943, by the addition to each of a statement of the Administrator's determination that there was no practicable alternative for effective price control to the standardization embodied in the regulation. Supplementary Orders Nos. 55 through 71, 8 F. R. 12550–12556. Amendments were required to any regulations which re-examination disclosed to be in conflict with the Taft Amendment. Two regulations were thus revised: Revised Maximum Price Regulation No. 339—Women's Rayon Hosiery, 8 F. R. 11741, issued August 23, 1943; Revised Maximum Price Regulation No. 304—Specified Utility Shirts, 8 F. R. 12315, issued September 4, 1943. See, *Seventh Quarterly Report of the Price Administrator to Congress*, dated February 15, 1944, covering the calendar quarter ended September 30, 1943, at pp. 18–21. Recently, the Administrator announced, in connection with Maximum Price Regulation No. 203, Vita-

Since the language of the Taft Amendment does not in terms require the invalidation of regulations between the effective date of the Amendment and the date of the announcement by the Price Administrator of the prescribed determination, and since the circumstances under which the Amendment was passed negative an intention on the part of Congress to produce such a result, petitioners' contention can be sustained only if as a matter of law the language used by the Congress permits of no other result. Such a result, however, is neither necessary nor proper under the applicable principles of law relating to administrative findings.

Petitioners appear to place their major reliance on certain language of this Court in *Panama Refining Co.* v. *Ryan*, 293 U. S. 388. However, the Court's discussion of the requirement for expressed jurisdictional findings in that case was closely linked to its condemnation of the invalid delegation of legislative power contained in the

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min A Natural Oils and Concentrates, that although he believed the standards or specifications there employed were in general use in the trade prior to price control and were authorized by clause (4) of the Taft Amendment, he had determined that in any event there is no practicable alternative for securing effective price control. (Amendment No. 5 to Maximum Price Regulation No. 203, 10 F. R. 9798. A statement of considerations involved in the issuance of this amendment was filed with the Division of the Federal Register on August 6, 1945. OPA Serv., Chemicals and Rubber Desk Book, pp. 11, 139–11, 140.)

statute, which emphasized the importance of findings. "If it could be said," the Court stated,

> that from the four corners of the statute any possible inference could be drawn of particular circumstances or conditions which were to govern the exercise of the authority conferred, the President could not act validly without having regard to those circumstances and conditions. And findings by him as to the existence of the required basis of his action would be necessary to sustain that action, for otherwise the case would still be one of an unfettered discretion as the qualification of authority would be ineffectual. * * *
>
> * * * To repeat, we are concerned with the question of the delegation of legislative power. If the citizen is to be punished for the crime of violating a legislative order of an executive officer, or of a board or commission, due process of law requires that it shall appear that the order is within the authority of the officer, board, or commission, and, if that authority depends on determinations of fact, those determinations must be shown. [293 U. S. at 431–432.]

There is no indication that the jurisdictional finding must have been announced at the time the regulation was issued. What the Court has said is that before a court may impose punishment for violation of an administrative regulation it must appear to the court that the regulation is within the scope of the administrative authority.

In the *Panama Refining Co.* case jurisdictional findings had never been made; the record before the Court was devoid of them. It does not appear from the opinion that if the statute had contained sufficiently definite standards the Court would not have recognized findings made after the regulation was promulgated.

This Court has frequently approved the practice, upon judicial review of administrative orders, of remanding the proceedings to supply needed findings. *Phelps Dodge Corp.* v. *National Labor Relations Board,* 313 U. S. 177. Cf. also *Addison* v. *Holly Hill Fruit Producers, Inc.,* 322 U. S. 607; *Eastern Central Ass'n* v. *United States,* 321 U. S. 194; *United States* v. *Morgan,* 307 U. S. 183; *Ford Motor Co.* v. *National Labor Relations Board,* 305 U. S. 364; *Mahler* v. *Eby,* 264 U. S. 32. In the *Ford* case the opinion states:

> There is nothing * * * in the principles governing judicial review of administrative action, which precludes the court from giving an administrative body an opportunity to meet objections to its order by * * * making additional findings where these are necessary * * * [305 U. S. at 375].

In *United States* v. *B. & O. R. R. Co.,* 293 U. S. 454, also referred to by petitioners, as in the *Panama* case, the requisite findings had been omitted altogether by the Interstate Commerce Commission. Petitioners refer to no case, and

we are aware of none, in which a court has invalidated an administrative order where the necessary findings had been articulated before the proceeding came before the court for review. Certainly the purpose which is served by findings, of facilitating judicial review of the orders to which they relate, is met in the present situation. Cf. *Phelps Dodge Corp.* v. *National Labor Relations Board, supra; Twin City Milk Producers Ass'n* v. *McNutt*, 123 F. 2d 396, 398 (C. C. A. 8th).

In the case at bar, the Administrator had publicly announced his determination long before judicial review was sought. The record clearly shows the determination upon which the Administrator's authority depends and hence conforms to the language of this Court in the *Panama* case, *supra*. If the present case had arisen under a statute which required an administrative hearing before issuance of the regulation, there could be no doubt that on the record which exists here the regulation would not be stricken nor would the proceedings be remanded because of the absence of an administrative determination. Under the Emergency Price Control Act, which provides for administrative hearings after issuance of a regulation, pursuant to a protest, a finding such as has now been made to support the regulation is sufficient; for, as pointed out by the Emergency Court of Appeals, the purpose of the statutory protest proceeding to build a record for judicial review has been met. Cf. *Bowles* v. *Willingham*,

321 U. S. 503, 515–516. Nor does a case like the present, originating in a direct complaint under section 204 (e) (1) of the Act, present a different situation; for that section contemplates administrative proceedings, by authorization of the court, in advance of a final judicial determination whenever necessary for the development of an adequate record. In the present case, no such administrative assistance was necessary since the Administrator's determination had long since been published and was a matter of public record when the proceeding was instituted.

As already indicated, this Court has permitted requisite findings, as well as other procedural omissions, to be supplied even after judicial review has been instituted. When such procedural corrections have been made, they have operated in many cases, or would operate when made, to support or define rights and liabilities arising before the procedural infirmities were removed. See especially *Atlantic Coast Line* v. *Florida*, 295 U. S. 301; *United States* v. *Morgan, supra; Addison* v. *Holly Hill, supra.* Petitioners have sought to distinguish the *Morgan* case from the case at bar on the ground that it involved property *in custodia legis.* But in *Addison* v. *Holly Hill* this Court expressly stated that the existence of a *res in custodia legis* was immaterial to the decision in the *Morgan* case, 322 U. S. at 621. Nor can petitioners claim a right to participate in any administra-

tive proceedings leading to the Price Administrator's determination, for clearly the statute does not secure such participation but is intended rather to assure adequate evidence of proper administrative consideration of the necessity for the standardization which is embodied in the regulation. We submit, therefore, that no principle of law relating to the necessity for the expression of administrative findings warrants the invalidation of the regulation here assailed.

No substantial issue is presented with respect to the correctness of the Price Administrator's finding. In their complaint petitioners did not contend that the regulation conflicted in substance with section 2 (j) (3) of the Act in that there was any practicable alternative for effective price control to the standardization provision contained in the regulation, between July 16 and September 11, 1943.[6] Any attack on the Regulation as invalid because not in conformity with the substantive requirement of the Taft Amendment comes too late in the petition for a writ of certiorari. As indicated by the opinion of the court below, petitioners' failure to raise any substantive objection to the validity of the regulatory provision during the period in question must be taken as a concession that the Regulation conformed to the statu-

[6] No such contention was made in the protest filed by petitioners out of which case No. 67 this Term, arose. No. 67, R. 1-9.

tory standards, since the burden is upon a complaint to establish the invalidity and to set forth initially all specific objections to a regulation. Sections 203 (a), 204 (a) and 204 (e) of the Act. Since in the present case the Administrator's determination had been published long before petitioners instituted any action for the purpose of securing judicial review, they have had ample opportunity to dispute the factual basis of the determination, which also was publicly announced,[7] but they have not seen fit to do so.

It should be pointed out, however, that even if it were properly raised and relevant to the issues before the Court, petitioners' contention that the Administrator's determination does not speak as of the period between July 16 and September 11, 1943, is patently insubstantial. It is implicit throughout the supplementary statement of considerations issued simultaneously with the amendment of the preamble to the Regulation, making formal announcement of the Administrator's determination, that the determination was based upon conditions which had existed in the industry for some time. There was no indication whatsoever that the determination was based on facts which had occurred subsequent to the passage of the Taft Amendment. Any possibility that the

[7] The complete text of the supplementary statement of considerations appears in the Appendix, *infra*, pp. 25–28. It was filed with the Division of the Federal Register under the Federal Reports Act.

determination, although justified on September 11, 1943, when it was announced, was not supported by the facts prior to that date is negatived by the recitation in the supplementary statement of considerations, issued only 57 days after the passage of the Taft Amendment, that:

> Both consumers and dealers are in agreement that it is necessary to provide this penalty price upon sales of unsorted paper to consumers.

We submit, therefore, that the court below was correct in ruling that Section 1347.14 (d) of Maximum Price Regulation No. 30, concededly valid prior to July 16, 1943, and subsequent to September 11, 1943, was not rendered invalid between these dates because the administrative determination prescribed by section 2 (j) (3) of the Act was not publicly announced until the latter date.

Petitioners contend, however, that this interpretation of the statute has the effect of depriving them of certain constitutional guarantees. They appear to raise two constitutional issues: (1) that failure to require the announcement of the Administrator's determination as a condition precedent to the continued effectiveness of the regulation has denied them procedural due process; and (2) that the interpretation of the statute made by the court below has the effect of subjecting petitioners to prosecution under an *ex post facto* law.

The previous discussion, we believe, disposes of the due process objection. None of the cases to which reference has been made by petitioners stands for the proposition that there is a general constitutional requirement that administrative action must be supported by findings, and this Court has held to the contrary. *Pacific States Box & Basket Co.* v. *White*, 296 U. S. 176, 186. In this case, moreover, the findings required by the statute have been made and appear in the record; and, as we have shown, they have been reached in a proper manner.

Petitioners' contention that they have been subjected to prosecution under an *ex post facto* law is likewise unsound. The danger inherent in *ex post facto* legislation against which the constitutional guaranty was intended to guard, is that a person might be subjected to criminal penalties for acts which he could not know were proscribed at the time he committed them. No such situation is presented in this case. Here, Maximum Price Regulation No. 30 was outstanding at the time of the violations alleged in the enforcement proceeding out of which this case arises. The provision which petitioners are charged with having violated had been in effect for about 14 months prior to the date of the alleged violations.[8] The

[8] Section 1347.14 (d) of MPR No. 30 was identical to Section 1357.10 (a), footnote 2, of Revised Price Schedule No. 30 as amended May 12, 1942, 7 F. R. 3576.

Administrator's announcement of a determination on September 11, 1943, did not for the first time define any crimes for a previous period or alter the content of the previous regulations. In no sense can it be said that petitioners have been subjected to *ex post facto* legislation.

CONCLUSION

For the foregoing reasons, we respectfully submit that the judgment of the court below should be affirmed.

J. HOWARD MCGRATH,
Solicitor General.
RALPH F. FUCHS,
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FEBRUARY 1946.

68-2174 46 4

APPENDIX

Pertinent administrative actions by the Price Administrator are as follows:

OFFICE OF PRICE ADMINISTRATION

SUPPLEMENTARY STATEMENT OF CONSIDERATIONS INVOLVED IN THE ISSUANCE OF MAXIMUM PRICE REGULATION NO. 30—WASTEPAPER

In the light of the amendment (Pub. Law 151, 78th Cong.) adding to the Emergency Price Control Act of 1942 a provision (paragraph (j) of Section 2) which restricts the power of the Price Administrator to make use of standards in price control, Maximum Price Regulation No. 30 has been re-examined. Based upon this examination, the Price Administrator has determined, that the regulation complies with that amendment. As far as possible, Maximum Price Regulation No. 30 fixes maximum prices for different kinds, classes or types of wastepaper only in terms of specifications or standards which prior to the issuance of the regulation were in general use in the wastepaper industry. Insofar as it may not do so, the Price Administrator find the variances essential to price control in this field.

Maximum Price Regulation No. 30 establishes dollar and cent maximum prices for thirty-two grades of wastepaper, and provides that the maximum price for any unlisted grades shall be a price in line with the maximum price stated in the regulation for the nearest related grade. The speci-

fications of the thirty-two listed grades were arrived at after extensive conferences with producers and consumers of wastepaper. Grade-listings and specifications in all available trade journals dealing with wastepaper were also examined. As a result of these conferences and studies, grades were established and defined in accordance with industry practices.

It must be conceded that in an industry of this type, absolute certainty with respect to the prevalence of any particular standard would not be possible, particularly since industry practices in various sections of the country, and indeed with respect to individual companies, are by no means uniform. To the extent that any specifications stated in Maximum Price Regulation No. 30 deviate from the exact specifications which were in general use in the trade or industry affected, the Price Administiator finds there was no practicable alternative for securing effective price control with respect to the particular grades involved. Regardless of any unclarity in industry practices in this respect, certain specifications and standards of general applicability are essential to price control. Maximum prices cannot be established for an infinite number and variety of grades, kinds, classes or types of wastepaper. Representatives of the industry are in agreement that the specifications and standards established by this regulation represent the best possible averaging of general industry practices.

The fact that certain grades of wastepaper are not listed and must be priced under a separate pricing procedure does not effectuate any standardization. The listed grades constitute all of the

standard grades, and the industry is in complete agreement that no standard grade has been omitted from that list. It was necessary to provide a separate procedure for the pricing of unlisted grades because sales of such unlisted grades are so irregular that there would be no established market prices and differentials upon which maximum dollar and cent prices could be based.

In one respect, Maximum Price Regulation No. 30 may be deemed to effectuate a standardization not heretofore known in the industry. Section 1347.14 (b) provides that the maximum price for unsorted paper sold to a consumer shall not exceed the maximum price prescribed by the regulation for "No. 1 mixed paper." This was not the practice in the industry prior to price control. Prior to price control, unsorted paper was rarely sold to a consumer, but whenever it was the price varied depending upon the materials contained in the lot of unsorted paper. Maximum Price Regulation No. 30 penalizes sellers upon their sales of unsorted paper to a consumer. This provision affects a very small percentage of the industry's total volume and is absolutely necessary in order to secure effective price control with respect to wastepaper. Since every lot of unsorted paper, is always of a different value from any other lot of unsorted paper, it would be impossible to establish a fair price for sales of unsorted paper. To exempt sales to consumers of unsorted paper would have the result that only those consumers who were able to sort their own paper would be able to obtain any supplies, thus giving such consumers an unfair advantage. Both consumers and dealers are in agreement that it is

necessary to provide this penalty price upon sales of unsorted paper to consumers.

In light of the foregoing, the Price Administrator finds that except for comparatively minor exceptions, Maximum Price Regulation No. 30 fixed minimum prices for different kinds, classes, or types of wastepaper only in terms of exceptions or standards, which prior to the issuance of the regulation, were in general use in the wastepaper industry, and, that with respect to any exception, no practicable alternative exists for securing effective price control over sales of wastepaper. The Price Administrator finds, also, that insofar as Maximum Price Regulation No. 30 effectuates standardization in the wastepaper industry, such standardization is the only practicable method of securing effective price control with respect to the wastepaper involved. In light of all of the foregoing, the Price Administrator finds that Maximum Price Regulation No. 30 complies with paragraph (j) of Section 2 of Emergency Price Control Act of 1942, as amended.

Issued this 11th day of September 1943.

Office of Price Administration

Part 1305—Administration

Supplementary Order 64

Amendment of preamble of certain maximum price regulations covering paper, paper products, raw materials for paper and paper products, printing and publishing with respect to use of specifications or standards

A statement of the reasons for the issuance of this supplementary order has been issued simul-

taneously herewith and filed with the Division of the Federal Register.*

It is hereby ordered, That:

§ 1305.90. *Amendment of preamble of certain maximum price regulations covering paper, paper products, raw materials for paper and paper products, printing and publishing with respect to use of specifications and standards.*—(a) The preamble to each of the price regulations listed below is amended by adding thereto the following sentence:

Such specifications and standards as are used in this regulation were, prior to such use, in general use in the trade or industry affected.

Regulation and Federal Register Citations:

RPS 32; 7 F. R. 1264, 2000, 2132, 2740, 3182, 8949.
MPR 129; 7 F. R. 3178, 3242, 3482, 3554, 4176, 4668, 5172, 5780, 5712, 5943, 7974, 8939, 8948, 9131, 9724, 10152, 10812.
RMPR 257; 8 F. R.
MPR 307; 8 F. R. 1389, 2335.
MPR 349, 8 F. R. 3617, 6110, 7266.
MPR 359; 8 F. R. 4635, 4727, 6736.
MPR 365; 8 F. R. 4721.
MPR 369; 8 F. R. 5174.
RMPR 387; 8 F. R. 8507.

(b) The preamble to each of the price regulations listed below is amended by adding thereto the following sentence:

Such specifications and standards as are used in this regulation were, prior to such use, in general use in the trade or industry affected and have

*Copies may be obtained from the Office of Price Administration.

previously been promulgated and their use lawfully required by another Government agency.

Regulation and Federal Register citations:

MPR 114; 7 F. R. 2843, 3576, 5059, 5564, 8997, 8948; 8 F. R. 321, 2334, 8877, 10558.
MPR 400; 8 F. R. 7556.

(c) The preamble to each of the price regulations listed below is amended by adding thereto the following sentence:

Insofar as this regulation uses specifications and standards which were not, prior to such use, in general use in the trade or industry affected, or insofar as their use was not lawfully required by another Government agency, the Administrator has determined, with respect to such standardization, that no practicable alternative exists for securing effective price control with respect to the commodities subject to this regulation.

Regulation and Federal Register citations:

MPR 30; 7 F. R. 9732; 8 F. R. 3845, 6109, 7350, 7199, 7821.
MPR 47; 8 F. R. 270.
RMPR 130; 7 F. R. 9251, 10255; 8 F. R. 1586, 2670, 7766.
MPR 266; 7 F. R. 9229, 10379, 11009; 8 F. R. 164, 606, 9380.
MPR 344; 8 F. R. 3198, 6109.
MPR 182; 7 F. R. 5712, 6048, 7974, 8997, 8948, 9724.

This supplementary order shall become effective September 11, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E. O. 9250, 7 F. R. 7871; E. O. 9328, 8 F. R. 4681)

Issued this 11th day of September 1943.

CHESTER BOWLES, *Acting Administrator.*

OFFICE OF PRICE ADMINISTRATION

STATEMENT OF THE REASONS INVOLVED IN THE ISSUANCE OF SUPPLEMENTARY ORDER NO. 64

The reasons for the issuance of this supplementary order are the same as those for the issuance of Supplementary Order No. 55 and the latter are incorporated herein by reference.

Issued this 11th day of September 1943.

CHESTER BOWLES, *Acting Administrator.*

OFFICE OF PRICE ADMINISTRATION

STATEMENT OF THE REASONS INVOLVED IN THE ISSUANCE OF SUPPLEMENTARY ORDER NO. 55 AMENDMENT OF PREAMBLE OF CERTAIN MAXIMUM PRICE REGULATIONS COVERING GROCERY PRODUCTS AND TOBACCO WITH RESPECT TO USE OF SPECIFICATIONS OR STANDARDS

The Taft Amendment to the Emergency Price Control Act of 1942 restricts the power of the Administrator to make use of standards in price regulation. The Amendment, contained in House Joint Resolution No. 147 which continued the Commodity Credit Corporation, adds a new paragraph (j) to Section 2 of the Emergency Price Control Act of 1942. The standards provisions are contained in clauses (3) and (4) of this paragraph which provide as follows:

> (j) Nothing in this Act [i. e. the EPCA] shall be construed * * * (3) as authorizing the Administrator to standardize any commodity, unless the Administrator shall determine, with respect to such standard-

ization that no practicable alternative exists for securing effective price control with respect to such commodity; or (4) as authorizing any order of the Administrator fixing maximum prices for different kinds, classes or types of a commodity which are described in terms of specifications or standards, unless such specifications or standards were, prior to such order, in general use in the trade or industry affected, or have previously been promulgated and their use lawfully required by another Government agency.

To determine whether and to what extent the price regulations issued by the Office of Price Administration conform to the "standards" requirement of the Taft Amendment, the Administrator has caused every price regulation to be carefully scrutinized. Supplementary Order No. 55, which this Statement accompanies, amends the preamble of the price regulations covering grocery products and tobacco E. H. P. by adding appropriate findings of compliance with the Amendment, wherever this may be done. Similar orders are being issued with respect to other price regulations issued by the Office of Price Administration. In addition, a separate supplementary statement of considerations is being issued for each regulation justifying the finding that the regulation complies with the Amendment. Appropriate amendments will be issued to those price regulations in which a finding cannot be made of compliance with the "standards" provisions of the Taft Amendment.

Since doubts have been expressed as to the exact meaning of the "standards" provisions, it is ap-

propriate that the Price Administrator state his views as to their meaning and intent and the basis upon which he has acted in determining whether the price regulations issued by this Office conform to the requirements of the provisions.

> Clause 3 of the Taft Amendment states that "Nothing in this act shall be construed * * * (3) as authorizing the Administrator to standardize any commodity, unless the Administrator shall determine with respect to such standardization, that no practicable alternative exists for securing effective price control with respect to such commodity.

Although as was pointed out by Senator Taft, "the word 'standardization' which went into the amendment was not thought of or debated particularly" (*Cong. Rec.*, July 6, 1943, at p. 7327), it is clear from the legislative history and context of the clause that to "standardize" was considered as meaning, broadly, to establish standards or to require conformity to standards.

Thus, for the purposes of price control, the Administrator "standardizes" a commodity—that is, establishes standards for it—whenever he bases ceiling prices upon standards or specifications which were not previously established either by general industry usage or by the action of another Government agency. The clause recognizes the Administrator's authority to establish standards whenever he determines "that no practicable alternative exists for securing effective price control with respect to" a commodity

The Administrator, however, does not "standardize" a commodity merely by basing ceiling

prices for it upon standards, when the commodity had already been standardized either by the general and voluntary use of those standards in the industry or by the action of another Government agency requiring their use.

When the Price Administrator requested the relaxation of the prohibition against standardization contained in the War Agencies Appropriation Bill, which unqualifiedly prohibited the Administration from "requiring * * * standardization", he accepted this understanding of "standardize." He did this explicitly by accompanying the proposal that he retain power to standardize when essential to effective price control with a suggested clarifying provision declaring that "no order * * * shall be deemed to require standardization" because it fixes maximum prices for different kinds, classes or types of a commodity described in terms of standards or specifications which were "in substantial use in the * * * industry affected" or were established by another Government agency. For text, see *Cong. Rec.*, July 6, 1943, at p. 7326.

The Administrator's proposal was accepted without change as an amendment to the Commodity Credit Corporation Bill by the Senate Committee on Banking and Currency. Although the committee amendment was subsequently modified on the floor, nothing in the changes which took place, or in the history of the provision either in the Senate or the House, suggests any other understanding of the basic concept of standardization.

Clause 4 of the provisions states that "Nothing in this Act shall be construed

> * * * (4) as authorizing any order of the Administrator fixing maximum prices for different kinds, classes, or types of a commodity which are described in terms of specifications or standards under such specifications or standards were, prior to such order, in general use in the trade or industry affected, or have previously been promulgated and their use lawfully required by another Government agency."

This clause had its origin in the provision which the Administrator proposed to amend to the clause (now clause 3) giving him power to standardize where essential for effective price control. The purpose of this provision was to make clear that the action it described—the setting of maximum prices on the basis of standards already established—was *not* standardization. In the form proposed by the Administrator the clause was approved by the Senate Banking and Currency Committee in a report submitted by Senator Wagner (for himself and Senator Taft). *Senate Report No. 387*, 78th Cong., 1st Sess., July 3, 1943. In this report, the action described in the clause was treated as wholly distinct from standardization. *Id.*, at p. 3.

The form of the clause was changed as a result of an amendment offered from the floor by Senator Taft. He stated that the amendment had the approval of the Administrator and presented it as meeting the objections which the Administrator had raised to the proviso in the Appropriation Act which prohibited outright any order "requiring * * * standardization." The purpose of the amendment seems to have been to pre-

vent the claim that pricing by reference to types of standards, *other than those specified in the clause*, would not be "standardizing" and hence would not be subject to the limitations in clause 3. The change in form resulting in forbidding the Administrator to price by standards, when he had not established the standards in the manner permitted by clause 3, unless the standards were of the particular kinds which clause 4 specifies. Had Senator Taft intended to confine the Administrator's power to make use of standards to commodities already standardized, and thus to deny the Administrator's own power to standardize, his amendment would have been a reiteration of the proviso and could not possibly have been supposed to satisfy the objections to that proviso which the Administrator had expressed.

In explaining the amendment, Senator Taft said: "The amendment as I now offer it is only slightly different from the committee amendment." *Cong. Rec.*, July 6, 1943, at p. 7327. In addition to the change already noted, the modified amendment tightened the committee amendment in two other respects. It required that industry standards, if they were to be a basis of action under clause 4, should have been in "general" not merely "substantial," use, and that standards promulgated by another Government agency should be standards which the agency had lawfully required to be used. These three changes were not improperly described as "slight". No such description could have been made of a change which deprived the Administrator of any power to establish new standards, however essential to price control, and which, in

so doing, invalidated scores of outstanding maximum price regulations.

The statement of the managers on the part of the House pointed out that the Taft Amendment warranted "the repeal of the somewhat broader limitations recently included in the National War Agencies Appropriations Act of 1944, to which the Administrator objected." The characterization of the Taft Amendment as imposing narrower limitations than the appropriation proviso would not be true if clause 4 nullified clause 3.

Some uncertainty has been expressed as to the meaning of the Taft Amendment because of two statements which appear in the managers' statement.

1. In describing the effect of clause 4, the managers state: "But requirements that standards or specifications may be used in manufacturing or selling, or that such standards appear on the invoice, are prohibited" except where the standards meet the conditions specified in clause 4. Read in conjunction with clause 3, this merely emphasizes that clause 4 forbids the Administrator to employ standards in price control when those standards fail to meet the stringent conditions of clause 4 unless he can bring his action within the exception to clause 3 by making a determination that no practicable alternative to standardization exists for securing effective price control.

2. The managers also state: "Each of these four limitations [the four clauses] is made separately applicable to the issuance of maximum price regulations." The purpose of this obser-

vation seems to have been to reassure those who, like Senator Vandenberg (See *Cong. Rec.*, July 6, 1943, at p. 7327), feared that the Administrator might attempt to exercise his power to standardize so as to impair trade and brand names or to reintroduce grade labeling. The statement indicates that compliance with the exception in clause 3 will not justify action in violation of clause 1 or 2 which relate to trade and brand names and grade labeling. It does not indicate that clause 4 defeats clause 3. Clause 4, had its origin in a purpose to indicate actions which *were not subject* to clause 3, and the distinction between the actions subject to each clause was consistently maintained during the bill's history. It cannot be said that clause 4 governs actions which *are subject* to clause 3 and so limits them as in effect to nullify the power to standardize which the exception in clause 3 permits.

As a result of this analysis of the language of the Taft Amendment and its legislative history, the Administrator has reached the conclusion that he may properly issue price regulations in which prices are based on or calculated by reference to standards or specifications only if one of the following conditions is met:

1. The standards or specifications were, prior to their use in the regulation, in general use in the industry.

2. The use of the standards or specifications was, prior to their use in the regulation, lawfully required by another Government agency.

3. The Administrator has determined that no practicable alternative to using the

standards or specifications exists for securing effective price control.

This conclusion accords with the President's understanding of the meaning of the Taft Amendment, as stated by the President when he signed the Commodity Credit Corporation bill. The President stated that a construction which would prohibit "the Administration from making use of standards in any case regardless of how essential they were to price control unless such standards had been previously established by industry acceptance or trade acceptance" would "cripple price control". The President declared that he signed the bill with the understanding that the Taft Amendment "preserved power in the Administrator to 'standardize' a commodity in any case on which this was absolutely essential to an effective system of fixing prices."

Issued this 11th day of September 1943.

CHESTER BOWLES, *Acting Administrator.*

PART 1347—PAPER, PAPER PRODUCTS, RAW MATERIALS FOR PAPER AND PAPER PRODUCTS, PRINTING AND PUBLISHING

[MPR 30,[1] Amdt. 6]

WASTEPAPER

A statement of considerations involved in the issuance of this amendment, issued simultaneously herewith has been filed with the Division of the Federal Register.*.

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[1] 7 F. R. 9732; 8 F. R. 3845, 6109, 7350, 7199, 7821, 13049.

*Copies may be obtained from the Office of Price Administration.

Maximum Price Regulation No. 30 is amended in the following respects:

1. Section 1347.10 is amended to read as follows:

§ 1347.10. *Records and reports.*—(a) Every person who has been required under Revised Price Schedule No. 30 to keep records for inspection by the Office of Price Administration shall preserve such records for so long as the Emergency Price Control Act of 1942 shall remain in effect.

(b) Every person who purchases or sells commercially packed wastepaper, either for his own account, or for the account of another, shall make, and shall keep for inspection by the Office of Price Administration for so long as the Emergency Price Control Act of 1942 shall remain in effect, complete and accurate records of each purchase or sale of wastepaper by him, whether or not the same be commercially packed showing the following:

(1) Date of purchase or sale.

(2) Name and address of the buyer or seller.

(3) Grade of wastepaper purchased or sold.

(4) Quantity or each grade purchased or sold.

(5) Whether the wastepaper purchased or sold was commercially packed or in other condition.

(6) Prices or other charges paid or received.

(7) Warranties, if any, given or received.

Such records shall set forth separately the f. o. b. point of shipment price, the origin and destination of the shipment, the means of trans-

portation used, the amount of the transportation charge, and any other amounts paid or received in connection with such sale.

(c) Every consumer of wastepaper shall in addition to the above make and keep a complete and accurate record of each shipment of wastepaper delivered to him and of all weighing, inspecting, sorting, sampling, testing or grading operations performed by him or on his behalf with respect to each such shipment. Each record of each shipment required by this paragraph shall show:

(1) The date of its delivery to the consumer;

(2) The manner of its delivery, that is, by freight car, truck, or other means of transport;

(3) The freight car number, vehicle license number or other identification of the vehicle or other means of transportation in or by which delivery is made;

(4) The total weight of wastepaper and other material contained in the shipment, and the weight of each bale or package comprising the same;

(5) All facts relating to such shipment which have been ascertained at or after delivery thereof by performing upon such shipment or any portion thereof any weighing, inspecting, sorting, sampling or testing operations. Facts required to be recorded are:

(i) The ~~grade name of~~ each grade of wastepaper found in the shipment or sample;

(ii) The total weight of wastepaper from such shipment which was inspected, sorted, sampled, tested or graded;

(iii) The weight, ascertained by inspecting, sorting, sampling, testing or grading the wastepaper from such shipment upon which such operations or any of them were performed.

(*a*) Of each grade of wastepaper found in the shipment or sample; and

(*b*) Of outthrow; the term "outthrow" as shown in such record, and as used herein shall have the meaning given to it by this regulation.

(6) The names of the person or persons responsible for supervising the receiving, weighing, inspecting, sorting, sampling, or testing of the wastepaper delivered.

(d) On or before January 15, 1944, every person who sells commercially packed wastepaper shall file with the Office of Price Administration, Washington, D. C., an inventory statement of wastepaper on hand as of December 31, 1943. This inventory statement shall show all wastepaper owned or possessed by him or for his account, and shall be broken down to show the location of all wastepaper covered by it. In the event that any person fails to comply with this requirement, or if the inventory statement filed by him is incorrect or incomplete, in addition to any other penalties prescribed by law, such person must file on or before the 15th day of each month thereafter an inventory statement in the form above specified, which statement shall be as of the last day of the preceding month.

(e) Persons required to keep records and submit reports to the Office of Price Administration shall keep such other records and submit such other reports in addition to or in place of those

required in this section as the Office of Price Administration may from time to time require.

2. Appendix A (d) is amended to read as follows:

> (d) *Maximum prices for unsorted wastepaper.*—The maximum prices for sales of unsorted wastepaper to any person shall not exceed the maximum price prescribed by this regulation for "No. 1 mixed paper", regardless of the grades and quantity of each grade contained in such unsorted wastepaper.

3. The text of Appendix A, paragraph (f) preceding sub-paragraph (1) is amended to read as follows:

> (f) *Invoice requirements.*—All sales of waste paper commercially packed shall be invoiced. When delivery of the wastepaper is out of seller's warehouse, the invoice shall accompany the delivery or be mailed to purchaser before the end of the business day following the day upon which the wastepaper is shipped. In all other cases, the invoice shall be mailed before the end of the business day following the day upon which the wastepaper is shipped except that in those cases where seller does not receive the description of the wastepaper from his own supplier within that time, he shall send the invoice to purchaser as soon as he does receive that description. A copy of such invoice shall be kept on file by the seller, and the original shall be kept on file by the purchaser. The invoice shall state as separate items, the following data:

This amendment shall become effective January 4, 1944.

NOTE: The record-keeping and reporting requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 28th day of December 1943.

CHESTER BOWLES, *Administrator.*

OFFICE OF PRICE ADMINISTRATION

STATEMENT OF CONSIDERATIONS INVOLVED IN THE ISSUANCE OF AMENDMENT NO. 6 TO MAXIMUM PRICE REGULATION NO. 30, WASTEPAPER

The changes in Maximum Price Regulation No. 30 accomplished by the accompanying amendment are ancillary to the wastepaper compliance program undertaken by the Office of Price Administration. This program is being conducted with the utmost vigor because of the seriousness of the wastepaper black market. The existence of this black market is universally acknowledged by wastepaper sellers and consumers alike. Unless checked, it will lead to a complete break down of the price control program for this very important raw material. If that were permitted to occur, honest consumers of wastepaper would be unable to obtain their fair share of the available supply. Normal distribution of wastepaper would be completely disrupted, which would further diminish supplies. Cost increases to consumers would mount so as to affect seriously the production and distribution of the vital products for which wastepaper is a raw material.

Wastepaper constitutes more than 50% of the furnish for all paper products, and it is assuming an even greater importance as a substitute for virgin woodpulp which is growing scarcer because of the lack of manpower for wood cutting. Wastepaper constitutes far more than one half of the furnish for all paperboard, from which the containers are made that carry countless war and essential civilian items throughout the world. The material is so short at present that pressure upon the ceilings established by Maximum Price Regulation No. 30 are very strong. Present indications are that the shortage will continue and that pressure against the ceilings will not abate. Consequently, it is clear that an effective compliance program is essential. The changes embodied in the accompanying amendment are an indispensable adjunct to a workable compliance program.

The only substantive change relates to the so-called "unsorted" wastepaper provision in the regulation. This provision, which in effect exempted sales of unsorted waste paper below the consuming level, is now amended so that sales of unsorted waste paper at any level may not be made at a price in excess of the maximum price permitted by the regulation for "No. 1 Mixed Paper." This change was necessary because dishonest dealers had utilized the provision to outbid dealers who were living up to the regulation. Since the former was permitted under the regulation to bid more for the unsorted wastepaper than he could obtain for the wastepaper after sorting unless he violated the ceilings, the honest competitor found it impossible to compete in purchasing the un-

sorted material. Prior to price control in this field, most unsorted wastepaper moved at the price for mixed paper, and the change consequently does not substantially affect normal business practices. In those few instances where the new provision might otherwise penalize the owner of wastepaper containing valuable fibre, the owner can sort the wastepaper before making the sale.

The most extensive changes in the regulation relate to the keeping of records. The new record keeping provisions do not require any substantial amount of new records to be made, but they do require records which exist to be preserved. In particular, the new provisions require the consumer to keep very complete receiving records and also to record and preserve all data relating to any sample, testing, or inspecting operations made by him. The very great majority of consumers make such records at present. The new provisions will put a stop to the practice of falsifying records which has been engaged in by certain consuming mills.

The record-keeping is also expanded to require persons who sell commercially packed waste paper to keep records upon all their purchases and sales, whether or not the waste paper thus bought or sold is commercially packed. Also new is a provision that an inventory report be made on waste paper on hand as of December 31, 1943. This requirement is necessary in order to make it possible to determine what quantity of waste paper has actually passed through the hands of the waste paper dealer during any period of time. This information in turn will make it possible to prevent

above ceiling payments being made by means of a scheme of invoicing and paying for quantities of waste paper which were in fact not shipped.

Finally, the invoice requirement is slightly expanded. All sales of commercially packed waste paper must now be invoiced, rather than only those sales which are made to a consumer. The new invoice requirement is also more definite and certain with respect to the time within which sellers of waste paper must render an invoice to their buyers.

In light of the foregoing, the Price Administrator finds that Amendment No. 6 to Maximum Price Regulation No. 30 is consistent and will effectuate the purposes of the Emergency Price Control of 1942, as amended, and Executive Orders 9250 and 9328.

Issued this 28th day of December 1943.

CHESTER BOWLES, *Administrator.*

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